

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RAFAEL MERCADO,

Petitioner,

ORDER

v.

08-cv-671-slc

CAROL HOLINKA,
Warden, FCI-Oxford,

Respondent.

Petitioner is presently pursuing an appeal of this court's February 3, 2009 order dismissing his petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241. On February 23, 2009, this court entered an order denying petitioner's request for leave to proceed *in forma pauperis* on appeal and certifying that his appeal was not taken in good faith. However, on May 22, 2009, the court of appeals issued a ruling that this court erred in certifying that petitioner's appeal was filed in bad faith and instructed the court to assess an initial partial payment of the fee for filing his appeal. In an order entered in this case on June 24, 2009, I directed petitioner to submit a copy of his six-month trust fund account statement so that I could calculate his initial partial payment. Now petitioner has submitted the requested statement. From this statement, I find that petitioner owes \$20.43 as an initial partial payment of the \$455 filing fee.

IT IS ORDERED that petitioner Rafael Mercado may have until August 12, 2009, in which to submit a check or money order made payable to the clerk of court in the amount of

\$20.43. If, by August 12, 2009, petitioner fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment so that it may take whatever steps it deems appropriate with respect to this appeal.

Entered this 22nd day of July, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge